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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,706	01/26/2004	Jose Acosta	04354/100M502-US1	9289
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EXAMINER MALONE, STEVEN J				
ART UNIT 3687		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/765,706

**Applicant(s)**

ACOSTA ET AL.

**Examiner**

STEVEN J. MALONE

**Art Unit**

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-19, as originally filed, are currently pending and have been considered below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitation "the labor code" in line 7. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 1 recites the limitation "the correlated time record" in line 9. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 1 recites the limitation "the comparison" in line 11. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 18 recites the limitation "the performance" in line 1. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 18 recites the limitation "the memory" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 18 recites the limitation "the labor code groups" in line 11. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 18 recites the limitation "the department revenues" in line 13. There is insufficient antecedent basis for this limitation in the claim.
11. Claim 18 recites the limitation "the prescribed revenue" in line 15. There is insufficient antecedent basis for this limitation in the claim.
12. Claim 19 recites the limitation "the monitoring system" in line 4. There is insufficient antecedent basis for this limitation in the claim.
13. Claim 19 recites the limitation "the generated statistics" in lines 10-11. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. **Claims 1, 3-7, 11-15, 17 and 19 are rejected under 35 U.S.C. 102(b) as being unpatentable over Kahn et al. (6,401,079).**

**As per claim 1**, Kahn et al. teaches a method for analyzing labor efficiencies comprising the steps of:

receiving time records and corresponding labor codes associated with one or more employees (See Figure 28(b), via labor codes for multiple employees);

importing the received time records for the one or more employees from a time monitoring system into a database (See col. 5 at lines 1-13, via a database of employee time record information);

correlating each imported time record to a prescribed entry in a spreadsheet/data-table using the labor code (See col. 15 at lines 45-67, imported timesheet data into a shared database/spreadsheet);

wherein the prescribed entry is one of budgeted (hourly wage, see col. 16 at lines 5-15), forecasted (automatic overtime calculations, see col. 16 at lines 20-30), and historical data (historical time worked or a timesheet, see col. 15 at lines 45-67);

comparing each entry in the spreadsheet to the correlated time record in the database (See col. 26 at lines 55-67, via correlating: overtime, hours worked from time sheet data (historical data) with hourly wage for payroll purposes);

deriving a statistic (a calculation) based on the comparison/(hourly pay to hours worked), (See Figure 45(a), via gross earnings or net earnings or tax calculations or year to date earnings);

generating a report of the statistic (a paper check stub or an electronic notice, see col. 50 at lines 60-67); and

outputting the report to a user (See col. 50 at lines 60-67, via printing a check with a check stub).

**As per claim 3**, Kahn et al. teaches wherein entries in the spreadsheet represent allotted workable hours for each labor code (See col. 51 at lines 1-13, via a timesheet exported to a spreadsheet).

**As per claim 4**, Kahn et al. teaches wherein entries in the spreadsheet represent allotted expenditures (See col. 18 at lines 40-50, via medical deductions on pay stub).

**As per claim 5**, Kahn et al. teaches wherein the received time records of each employee are aggregated in the database on at least one of a daily, weekly, monthly and yearly basis (See col. 5 at lines 1-12, via timesheet information stored in a common database).

**As per claim 6**, Kahn et al. teaches wherein the aggregated time records in the database define a historical database (See col. 5 at lines 1-12, via stored timesheet information).

**As per claim 7**, Kahn et al. teaches wherein the step of comparing includes comparing the time records to the historical database (See col. 17 at lines 45-55, via modifying stored timesheet information).

**As per claim 11**, Kahn et al. teaches wherein the deriving step includes converting the comparison into at least one efficiency value (See col. 26 at lines 17-23, via a payroll percent deposit amount and a payroll deposit amount).

**As per claim 12**, Kahn et al. teaches wherein the generating step occurs automatically (See col. 5 at lines 47-50, via an automatic deduction for an employee's mortgage).

**As per claim 13**, Kahn et al. teaches wherein the generating step is accomplished in response to a user request (See col. 5 at lines 47-50, via an automatic deduction for an employee's mortgage).

**As per claims 14 and 15**, Kahn et al. teaches wherein the report is electronically transferred to a database (See col. 51 at lines 1-13, via a timesheet exported to a spreadsheet).

**As per claim 17**, Kahn et al. teaches correlating the received time records and the corresponding labor codes in a spreadsheet; and correlating the received time records with a designated indicator (See col. 51 at lines 1-13, via a timesheet exported to a spreadsheet and saving the spreadsheet file).

**As per claim 19**, Kahn et al. teaches a system for analyzing labor efficiencies comprising:

at least one time monitoring system (See the Abstract, via a payroll system with time monitoring functions);

a database adapted to maintain a historical database based upon time records retrieved from the time monitoring system, budgeted data for time records (overtime limits, see col. 14 at lines 10-15) and business expenditures (money paid out, via earnings of an employee or contractor), and further including means for comparing the time records with the historical database to generate a statistic (a computer, see Claim 8);

a central processing unit communicatively coupled to the at least one time monitoring system so as to be able to process the time records and adapted to provide information to the database (a computer, see Claim 8),

wherein the database is accessible by a user to output a report detailing the generated statistics (generating a payroll output, see col. 64 at lines 10-20).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**17. Claims 2, 8-10, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahn et al. (6,401,079) in view of Peterson (6,289,317).**

**As per claims 2, 8 and 9**, Kahn et al. discloses all elements of the claimed invention, but fails to explicitly disclose wherein the importing step includes the steps of retrieving actual revenues earned for a business and inputting a budget for hours and revenues, and wherein the deriving step includes deriving the statistic with regard to at least one of the actual revenues and the budget.

Peterson discloses a task-based classification and analysis system including wherein the importing step includes the steps of retrieving actual revenues earned for a business and inputting a budget for hours and revenues, and wherein the deriving step includes deriving the statistic with regard to at least one of the actual revenues and the budget (See col. 6 at lines 5-10, via variance reports based on hours and revenue).

From the disclosure of Peterson it would have been obvious to one of ordinary skill in the art at the time the invention was made to compare actual revenue and time to budgeted time and revenue in order to optimize charges for a particular service (See col. 2 at lines 19-23 of Peterson).



**As per claim 10**, Kahn et al. discloses wherein the time monitoring system comprises one or more time clocks electronically connected to the database (See col. 5 at lines 35-45, via time clock devices).

**As per claims 16**, Kahn et al. discloses all elements of the claimed invention, but fails to explicitly disclose: importing revenue records of one or more departments of a particular business unit into the database; wherein the deriving step further comprises deriving a second statistic based on comparing the statistic with revenue; and wherein the generating step further comprises generating a report of at least the statistic and revenue.

Peterson discloses a task-based classification and analysis system including: importing revenue records (cost information) of one or more departments of a particular business unit into the database (See col. 2 at lines 25-40, via task-based budgets based on cost information);

wherein the deriving step further comprises deriving a second statistic based on comparing the statistic with revenue (See col. 2 at lines 25-40, via a second task-based budgets based on cost information); and

wherein the generating step further comprises generating a report of at least the statistic and revenue. (See col. 6 at lines 5-10, via variance reports based on hours and revenue).

From the disclosure of Peterson it would have been obvious to one of ordinary skill in the art at the time the invention was made to compare actual revenue and time to

budgeted time and revenue in order to optimize charges for a particular service (See col. 2 at lines 19-23 of Peterson).

**As per claim 18**, Kahn et al. discloses a method for analyzing the performance of a business, comprising the steps of:

receiving time records and corresponding labor codes associated with one or more employees (See Figure 28(b), via labor codes for multiple employees);

grouping the labor codes such that the labor codes are associated with a department of the business (See Figure 28(b), via grouping labor codes with divisions and departments);

importing the received time records and labor codes for the one or more employees from a time monitoring system into a database (See col. 5 at lines 1-13, via a database of employee time record information);

inputting a revenue generated by the business for each department into the memory (commissions paid on revenue generated by the business, see col. 42 at lines 45-55);

correlating each imported time record to a prescribed entry in a first spreadsheet using the labor code groups (See col. 15 at lines 45-67, imported timesheet data into a shared database/spreadsheet);

wherein the prescribed entry is one of budgeted (hourly wage, see col. 16 at lines 5-15), forecasted (automatic overtime calculations, see col. 16 at lines 20-30), and historical data (historical time worked or a timesheet, see col. 15 at lines 45-67);

associating the department revenues with at least one prescribed revenue for the department in a second spreadsheet (commissions paid on revenue generated by the department, see col. 42 at lines 45-55);

comparing each entry in the first spreadsheet to the correlated entry in the second spreadsheet (See Figure 28c, via custom overtime rules compared to claimed overtime);

deriving a statistic (report) based on the comparison (creating the payroll check stub based on employer rules and employee hours, see col. 51 at lines 1-7);

generating a report of the statistic (printing out the check stub, see col. 19 at lines 20-30); and

outputting the report to a user (allowing the user to view pay records, see col. 51 at lines 10-15).

However, Kahn et al. fails to explicitly disclose wherein the prescribed revenue is one of budgeted, forecasted, and historical revenue.

Peterson discloses a task-based classification and analysis system including wherein the prescribed revenue is one of budgeted (See Figure 11, via a new budget entry), forecasted (See Figure 1, via forecasted budget entries), and historical revenue (See col. 5 at lines 1-15, via historical cost information).

From the disclosure of Peterson it would have been obvious to one of ordinary skill in the art at the time the invention was made to compare actual revenue and time to budgeted time and revenue in order to optimize charges for a particular service (See col. 2 at lines 19-23 of Peterson).

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lyons et al. (5,189,608) teaches a method and apparatus for storing and generating financial information.

Tran (5,991,742) teaches a time and expense logging system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. MALONE whose telephone number is (571)270-5107. The examiner can normally be reached on Monday-Thursday 7:30 am - 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3687

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
Supervisory Patent Examiner, Art  
Unit 3687

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